

TRIPLE D ROADSIDE MENAGERIE
DECISION DOCUMENT
February 14, 2000

PROPOSED APPLICATION FOR KODIAK GRIZZLY BEAR

On May 16, 1999, Montana Fish, Wildlife & Parks (FWP) received an application from Triple D roadside menagerie and game/fur farm, located at 190 Drake Drive, Kalispell, MT 59903, to acquire one Kodiak brown bear (*Ursos arctos middendorffi*). The applicant wishes to obtain a cub (6-8 weeks old) Kodiak brown bear as part of the applicant's existing roadside menagerie operation for photography purposes both onsite and elsewhere, both inside and outside Montana. On site, the applicant will take the bear out of its enclosure to an area just outside the bear building for training, exercise, and photography as described in the draft EA. The applicant also plans to transport the Kodiak bear by horse trailer to secure places in and out of Montana for photography. When in transit, the applicant would keep the bear inside the truck's reinforced enclosure at all times. The applicant would first obtain the necessary health certificates for the various states through which the bear is traveling and for the bear's return to Montana.

The applicant must abide by the provisions and/or stipulations that currently exist for his roadside menagerie and for Syrian brown bears. These stipulations will apply to the Kodiak brown bear upon its acquisition. According to these stipulations (listed below), any time an animal is taken from the facility, the applicant must keep a log that documents the time the animal is removed, purpose for removal, its destination, and the time of its return; immediately report to FWP any problems or escapes of all animals; and demonstrate control over the animals at any time. Additionally, he must also comply with stipulations regarding neutering, insurance, electrical fencing, availability of appropriate tranquilizing devices, as well as his own written and approved transporting, feeding, training, handling, safety, and contingency plans that have been approved by FWP for brown bears. These existing approved procedures are described in the draft EA. Further, the applicant will only be allowed to handle, train, or photograph one bear at a time outside its enclosure and not in conjunction with any other animal, domestic or wild. Finally, the applicant must upgrade the Kodiak bear's enclosure to be consistent with standards recommended in Zoo Standards for Housing Bears in Captivity (Fling 1999) by the bear's third birthday. Because the bear is used for photography, the U.S. Dept. of Agriculture Veterinary Inspector visits premises at least once a year for safety, health, and other reasons.

Description of the Facilities

Initially, the applicant will house the Kodiak bear in the animal nursery. The nursery enclosure consists of a series of expandable panels inside a heated building. The enclosure includes floor drains, and hot and cold water, so that the staff can easily clean the enclosure. After the first year, the bear will be transferred to a larger bear enclosure in the bear building. Eventually, he will go into one of the larger bear units (17 ft. x 12 ft. x 7 ft.) located in the bear building. These enclosures currently consist of 9-gauge chain link fence on a cement pad with one-foot-high concrete walls. The 9-gauge chain link fence extends up and over the top of the concrete pad. Hot wires are located on all 4 walls as well as on the cage ceiling. The electrical system includes a back-up 12-volt battery with a second back-up gas-fired generator that can maintain the battery should the electricity system fail. A cement den (6 ft. x 5 ft. x 4 ft.) lies within the enclosure. The enclosure doors are padlocked; the main door and smaller feeding window are not electrified to enable safe ingress and egress by handlers and the bear. This system also allows the keepers to feed the bear through a small door or "window" without shutting off the electricity.

The enclosure lies inside a "bear building" which contains 4 similar enclosures holding either Syrian brown bears or American black bears. Two to four-foot sidewalks or alleyways separate the bear enclosures. The locked building includes many open-to-the-air large "windows" which are covered with electrified chain link fence. The bear enclosures and building are locked at all times except when bears are being fed or trained, or when the facilities are being cleaned. The keepers disconnect the electrical system only when they wash/clean the facilities. This reduces the risk of injury to both the keepers and the bears should they contact a hot wire when the cages and alleyways are wet.

The applicant plans to transport the Kodiak bear in modified solid-sided horse trailer with both inside and outside doors that are locked at all times. The handlers would feed and water the bear during transportation. The handlers will carry a portable electrical 3-strand fence and battery system with the bear at all times. The handlers also carry a back up cage in a second truck in case the horse trailer breaks down. Once the bear is on location, the 3-strand electrical fence surrounds the entire horse trailer so that the bear can be exercised, trained, or photographed.

The applicant plans to build a new bear facility with at least one larger and stronger enclosure designed for an adult Kodiak bear consistent with the proposed stipulation and the standards recommended in Zoo Standards for Housing Bears in Captivity (Fling 1999).

THE MONTANA ENVIRONMENTAL POLICY ACT PROCESS (MEPA)

According to MEPA, FWP is required to assess the impacts of the proposed action to the human environment. FWP completed a draft Environmental Assessment of the proposed bear acquisition December 10, 1999, for a 30-day public comment period. During this process, it was determined that a full Environmental Impact Statement would not be required. The draft EA was distributed to the Montana Environmental Quality Council, Montana Department of Health and Environmental Quality, Montana Historical Society, Montana State Library, Montana Department of Livestock, FWP Regional Offices, Flathead County Commissioners, area legislators, Flathead Regional Planning Office, Flathead County Library, and interested individuals. FWP had legal notices printed in the local newspaper. Requests for comments on this proposed acquisition were also published in the State Bulletin Board and the Region's News Release.

ISSUES OF CONCERN IN THE EA

The EA process identified no significant environmental impacts that could not be mitigated as long as the applicant adheres to the proposed stipulations and follows his own handling and safety procedures described in the draft EA. Local ordinances will not be violated by the proposed action. The applicant must comply with all applicable federal and state laws governing the operation of the business.

SUMMARY OF PUBLIC COMMENTS AND FWP RESPONSES

FWP accepted public comments for the proposed Kodiak bear draft EA from December 10, 1999, through January 10, 2000. FWP received one public comment during that time. The comment opposed the application due to the problems the state is currently experiencing related to chronic wasting disease.

FWP Response: Chronic wasting disease is known to occur only in ungulates such as deer and elk at this time. Chronic wasting disease or similar disease is not known to occur in captive bear populations. However, disease in captive wild animal populations is a general concern across all wild animal operations. In the draft EA, FWP indicated that the facility is inspected annually by a U.S. Dept. of Agriculture veterinarian for health and safety reasons. Additionally, health certificates are

required for the importation of all roadside menagerie animals. Finally, the roadside menagerie must have an attending local veterinary review and file a report on all animal illnesses or deaths at the facility.

RECOMMENDED MITIGATION MEASURES

To reduce impacts to archaeological resources:

If the applicant encounters cultural properties during the course of the project, he should contact the State Historical Preservation Office at 406-444-7715 or by email at pmelton@state.mt.us.

THE DECISION AND REQUIRED STIPULATIONS

After reviewing this application, the draft EA, and the public comment, I approve the addition of the Kodiak brown bear to the existing roadside menagerie permit with the following additional stipulations:

REQUIRED STIPULATIONS

FWP imposes the following stipulations for the Triple D roadside menagerie. Most of these stipulations already apply to the existing roadside menagerie and/or to Syrian brown bears and would now extend to the addition of one Kodiak brown bear. These stipulations should mitigate significant impacts identified in the EA to below the level of significance.

New Stipulations

1. This Decision allows for the addition of one Kodiak brown bear (*Ursus arctos middendorffi*) to the applicant's existing roadside menagerie permit. The applicant may replace the Kodiak brown bear with another Kodiak brown bear if he replaces the Kodiak brown bear with another 6-8 week old cub. The applicant would need to file proper forms regarding the disposition of the original Kodiak bear and must notify FWP of the proposal to replace it. However, the replacement of the Kodiak bear would not necessarily require a draft EA or public notice unless other circumstances would warrant a new EA.
2. The applicant must either rebuild or replace the current enclosure with a stronger, higher, and larger one consistent with recommendations for large brown bears according to Zoo Standards for Housing Bears in Captivity (Fling 1999) or subsequent revisions. Applicant must construct the new or modified enclosure by the time of the Kodiak brown bear's third birthday. The applicant must submit his plans to FWP at least 30 days before construction is initiated.
3. The applicant must maintain and abide by his written care, handling, transportation, and contingency procedures, as approved by FWP, for all his activities with bears on and off his premises. These written procedures shall reflect procedures used for feeding, training, transporting, handling, and photographing the bears. These written procedures must be made available to FWP personnel upon request.
4. With the exception of the bear handler, no other people or animals, including pets, livestock, or other wild animals, may be within the electrical fence or in the immediate vicinity of a Kodiak or Syrian brown bear during any activity in which that brown bear is outside its enclosure.

Existing Stipulations - Adapted From Decision Notice 1994

1. For any additional Syrian brown bears, Triple D must notify the Department two weeks in advance of the animal's expected arrival date. Bears, whether male or female, must be neutered before they are brought into the facility unless they are less than one year old. If a bear is less than one year old, it must be neutered before it is one year old. Proof of neutering must be provided to the Department within 30 days of neutering. A written statement or certificate from a licensed veterinarian will suffice as proof of neutering.
2. Triple D shall provide liability insurance, naming FWP as an additional insured party, in the amount of at least \$1,000,000 as long as a bear is part of operation. Triple D shall provide FWP with proof of insurance.
3. Each bear must be securely caged at all times, including during transport and when it is not being handled or trained or photographed.
4. Each bear's cage must be clean and kept as free from odors as reasonably possible to minimize the potential to attract wild bears.
5. A secure electrified 3-strand enclosure, with other safeguards described in these stipulations or in applicant's written procedures, must be used when working any bear outside its enclosure.
6. Triple D must have available and be trained in the use of a tranquilizing device to be used for emergency control of any bear.
7. Triple D must keep a log documenting each time an animal is removed from the facility (where it is going, for what purpose, and when it returns) and have it available for inspection by FWP. The type of log currently being used by Wild Eyes (Brent and Robin Allen) will provide sufficient documentation.
8. Triple D must immediately report to the Region One Enforcement personnel any escape or attempted escape by any bear or of any problems with bears.
9. FWP will continue to monitor the roadside menagerie's animals by scheduling periodic inspections at the discretion of the Region and the local warden. Triple D may be asked to demonstrate control over any or all animals to the warden whenever he feels such a demonstration is necessary. The warden will judge whether the control is adequate. If the warden determines that the bears are difficult to handle, he will report his conclusions, and Triple D may be required to restrict the bears to their cages at all times.
10. Violation of any of these conditions or problems with any bear may result in further restrictions to the permit or revocation of the permit.


Daniel P. Vincent

2/14/00
Date

Date

Date

PRIVATE PROPERTY ASSESSMENT ACT CHECKLIST

DOES THE PROPOSED AGENCY ACTION HAVE TAKINGS IMPLICATIONS UNDER THE PRIVATE PROPERTY ASSESSMENT ACT?

| YES | NO | |
|--------------------------|-------------------------------------|---|
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 1. Does the action pertain to land or water management or environmental regulation affecting private real property or water rights? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 2. Does the action result in either a permanent or indefinite physical occupation of private property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 3. Does the action deprive the owner of all economically viable uses of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 4. Does the action deny a fundamental attribute of ownership? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 5. Does the action require a property owner to dedicate a portion of property or to grant an easement? [If the answer is NO, skip questions 5a and 5b and continue with question 6.] |
| <input type="checkbox"/> | <input type="checkbox"/> | 5a. Is there a reasonable, specific connection between the government requirement and legitimate state interests? |
| <input type="checkbox"/> | <input type="checkbox"/> | 5b. Is the government requirement roughly proportional to the impact of the proposed use of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 6. Does the action have a severe impact on the value of the property? |
| <input type="checkbox"/> | <input checked="" type="checkbox"/> | 7. Does the action damage the property by causing some physical disturbance with respect to the property in excess of that sustained by the public generally? [If the answer is NO, do not answer questions 7a-7c.] |
| <input type="checkbox"/> | <input type="checkbox"/> | 7a. Is the impact of government action direct, peculiar, and significant? |
| <input type="checkbox"/> | <input type="checkbox"/> | 7b. Has government action resulted in the property becoming practically inaccessible, waterlogged, or flooded? |
| <input type="checkbox"/> | <input type="checkbox"/> | 7c. Has government action diminished property values by more than 30% and necessitated the physical taking of adjacent property or property across a public way from the property in question? |

Taking or damaging implications exist if **YES** is checked in response to question 1 and also to any one or more of the following questions: 2, 3, 4, 6, 7a, 7b, 7c; or if **NO** is checked in response to questions 5a or 5b.

If taking or damaging implications exist, the agency must comply with Paragraph 5 of the Private Property Assessment Act, to include the preparation of a taking or damaging impact assessment. Normally, the preparation of an impact assessment will require consultation with agency legal staff.